

## **NEW JERSEY CLEAN WATER COUNCIL**

**February 8, 2005**  
**Meeting Highlights**

### **Location:**

NJ Environmental Infrastructure Trust, Building 6, Suite 201, 3131 Princeton Pike, Lawrenceville, NJ

### **Attendees:**

Members: Pat Matarazzo, Russ Furnari, Amy Goldsmith, Pamela Goodwin, Ferdows Ali, Steve Lenox, Kerry Kirk Pflugh, Pat Pittore, Carmen Valentin, Ray Zabihach, Ray Nichols and Ursula Montis.

Others: John Maxwell, Clean Air Council; Karen Nowicki, Association of Environmental Authorities; Julia Barringer, USGS; Rick Kropp, USGS; Jon Bombardieri, Capital Public Affairs(Lyondell Co.) and Amy Soli, TRC Omni.

Meeting convened by Chairman Pat Matarazzo

### **MTBE PRESENTATION BY DEP ASSISTANT COMMISSIONER SAMUEL WOLFE**

In his introductory comments, Assistant Commissioner for Environmental Regulation Samuel Wolfe acknowledged the Clean Water Council's concerns about MTBE contamination in groundwater and some lakes in North Jersey. Despite the problems associated with its use as a gasoline additive, he informed the Council that NJDEP is not actively advocating a ban on its continued use. He then reviewed the history of the requirement imposed upon New Jersey by the federal Clean Air Act (CAA) to use an oxygenate in gasoline. There were originally two reasons why New Jersey was required to use reformulated (oxygenated) gasoline: carbon monoxide (CO) and ozone. The wintertime oxygenated fuel requirement was repealed in 1995 throughout New Jersey, while the reformulated gasoline year-round program continues because of non-attainment of the ozone standard. In his presentation, he made the following points:

- MTBE has been in use as a gasoline additive for about 35 years. Originally it was used as an octane enhancer. It is now used as an oxygenate.
- The 1990 Clean Air Act Amendments required reformulated gasoline in ozone non-attainment areas. The oxygen content of reformulated gasoline results in cleaner burning gasoline (less emissions of volatile organic chemicals, nitrogen oxides and CO).
- In the 1990's, New Jersey participated in the Wintertime Oxygenated Fuels program because of CO non-attainment in certain areas of the State.
- Since then, New Jersey has attained the CO standard, but not the ozone standard. Therefore the State still requires the sale of reformulated gas on a year-round basis.
- MTBE is the most common oxygenate used in New Jersey. Reformulated gasoline is 2.0% oxygenate by weight and 11% MTBE by volume.

- MTBE is of concern because it has been detected in groundwater and drinking water in New Jersey. The taste and odor threshold for MTBE is 20-40 ppb.
- The USEPA has not finalized a risk assessment for MTBE, and has not set a federal maximum contaminant level. Therefore, based upon applicable State laws and regulations, and available scientific studies, NJDEP has classified MTBE as a “possible” human carcinogen (rather than a “probable” or “known” carcinogen – which would imply higher levels of health risks). Consequently, the NJ drinking water standard has been set at 70 ug/liter (ppb). This standard is also NJDEP’s groundwater standard.
- Usually MTBE is detected at concentrations that are well below those standards (levels that are not associated with health effects).
- It has been detected in a very low percentage of private wells since 1980’s, albeit infrequently. Of the 26,000 sample results submitted to NJDEP as a result of the Private Well Testing Act, only 48 wells showed greater than 20 ppb and, of those, only 17 wells had concentrations of MTBE above the drinking water standard of 70 ug/liter.
- Most well contamination cases are related to leaking Underground Storage Tanks (UST).
- NJDEP has just initiated an expanded enforcement effort involving 18 new county and State enforcement inspectors to who will be focusing on the prevention of leaks from fuel tanks. They will be conducting inspections of all registered USTs to ensure the owners/operators are monitoring the leak detection devices, and taking prompt corrective action if any leaks are detected. Furthermore, the Department is mounting an enforcement effort aimed at penalizing any oil or gasoline distributors who are supplying any unregistered tanks.
- Although they may not travel as fast or far through ground water as MTBE, there are other chemicals in gasoline which are much more hazardous to human health (e.g. benzene, a known carcinogen).
- If MTBE is banned, another oxygenate must be used according to CAA. Ethanol is the next most commonly used oxygenate in the State. Because ethanol is more volatile than MTBE, during the summer months its use would contribute to ground level ozone, unless the gasoline is somehow treated to lower its volatility.
- The cost of replacing MTBE with ethanol in gasoline statewide is estimated to be approximately 5 cents per gallon or \$200 million per year.
- Therefore, senior NJDEP management has concluded that to address the issues related to ground water contamination from gasoline, while protecting air quality, efforts designed to reduce fuel spills and leaks are a better focus than a ban on MTBE.

### **FOLLOW-UP DISCUSSION**

In response to questions, Sandy Krietzman, currently the Bureau Manager for Air Quality Planning, and formerly with the Division of Water Supply, described the guidelines used by USEPA and NJDEP to classify chemicals according to their health risk: from greatest risk to least, known human carcinogen; probable human carcinogen; possible human carcinogen; no evidence of carcinogenicity; and insufficient data.

John Maxwell noted that no peer reviewed study has confirmed that MTBE is a carcinogen.

Amy Goldsmith asked if the development of more efficient, cleaner burning automobile engines might eliminate the need to require the use of reformulated gasoline in ozone non-attainment areas. Mr. Wolfe acknowledged that modern automobile engines are burning much cleaner than car engines were when the 1990 CAA was signed, thus reducing the need for the current requirement, but there is still a legal need for the oxygenate that is driven by the CAA requirements.

Noting that there were advantages and disadvantages to both MTBE and ethanol as additives, and problems with the way USEPA is regulating air pollutants, there was consensus that it made sense for New Jersey to wait until there is a federal or super-regional solution.

There was also consensus that there needs to be more enforcement inspections with a focus on preventing leaks from fuel tanks and accelerating the clean-ups of currently contaminated sites. CWC members were pleased to learn additional inspectors are now working on this task.

The presence of MTBE in some northern lakes was discussed briefly. Rick Kropp noted that it was found seasonally and appeared associated with the use of watercraft using 2-cycle gasoline engines. Someone suggested that there should be a ban on operating such watercraft on lakes that are part of the State's water supply, such as Spruce Run & Round Valley Reservoirs.

Russ Furnari suggested that a fact sheet based on Asst. Comm. Wolfe's talking points be developed and distributed to the public.

### **DISCUSSION OF OTHER PROPOSED RULES**

In response to questions from Russ Furnari and Pat Matarazzo, Assistant Commissioner Wolfe noted that there were some glitches in the text of the CO2 Rules recently proposed. There was no intent to change the way air permits were issued, nor was there anything in the rule proposal about fees. If anyone was interested in additional details of this rule proposal, Assistant Commissioner Wolfe suggested that they attend the next meeting of the Clean Air Council on Feb. 9th, in Hightstown.

Russ Furnari noted that it appears that DEP will not adopt any surface water quality standards based upon wildlife criteria at this time, due to the need to align with the DRBC. Re-adopted surface water quality standards are likely to include a requirement to monitoring using new 1600 level analytical methodologies.

**MEMBERSHIP UPDATE:**

No news on appointments.

**DEP UPDATE**

Copies of the latest organizational chart for the division of Watershed Management were distributed.

Kerry Kirk Pflugh announced that with the reorganization of the DWM, she had been given additional responsibilities with respect to the three Estuary Programs. She will also oversee the Coastal Monitoring and Clean Shore Programs. Therefore, she was delegating the role of NJDEP liaison to the CWC to Ray Nichols, while remaining available, as needed, for policy discussions. Ursula Montis would no longer be attending the meetings, but would continue to serve as a point of contact and would distribute notices of meetings, etc.

**ANNOUNCEMENTS:**

Ray Nichols made the following announcements:

In response to Council members' desire to be informed on the NJDEP's positions regarding pending legislation, John Hazen, from the Office of Legislative Affairs, will attend the March meeting and provide such an update.

At the April meeting, Judy Louis, of the Division of Science and Research, will report on her analysis of the first two years of data submitted to NJDEP as a result of the Private Well Testing Act.

Ray distributed copies of the Checklists being used by the Water Resources inspectors in their visits to municipalities to inform municipal officials of the various requirements contained in the Tier A and Tier B General Stormwater Management Permits that were issued last year. He noted that inspectors were planning to conduct these informational visits in every municipality in the State. A discussion of the significance of these NJPDES Stormwater Management Permits ensued, with several people expressing concern that many municipalities may not meet the deadlines imposed by the permits to develop comprehensive stormwater management plans. Also, NJDEP has not indicated that there will be waivers of extension for deadlines mandated by the permit requirements.

Pat Matarazzo reminded everyone to be thinking about possible topics for the 2005 Public Hearing.

**\*\*\*\*THE NEXT MEETING WILL BE ON MARCH 8, 2004, BEGINNING AT 10:00 A.M.\*\*\*\*  
John Hazen, of the NJDEP's Office of Legislative Affairs, will be the guest speaker.**